

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

-----X Civil Action No.
CITY OF PERTH AMBOY,

Plaintiff,

- against -

NOTICE OF REMOVAL

SAFECO INSURANCE CO. OF AMERICA,

Defendant.

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To the United States District Court for the District of New York:

Defendant Safeco Insurance Co. of America (“Safeco”) hereby files this Notice of Removal of the above-described action to the United States District Court for the District of New Jersey, from the Superior Court of the State of New Jersey, Law Division: Middlesex County, where the action is now pending as provided by Title 28, U.S. Code, Chapter 89, and state:

1. On or about September 7, 2007, the plaintiff, City of Perth Amboy, (the “Owner”) commenced this action in the Superior Court of the State of New Jersey, Law Division: Middlesex County, by filing a Summons and Complaint with the Clerk of said Court, under docket no. MID-L-7728-07.

2. On or about September 10, 2007, defendant Safeco was served with a Complaint and an accompanying Civil Case Information Statement by means of hand delivery to its attorneys, Torre, Lentz, Gamell, Gary & Rittmaster, LLP, who agreed

to accept service of process. This Notice of Removal is filed within thirty days of service of the foregoing upon the defendants as required by 28 U.S.C. § 1446(b).

3. As appears in the Complaint, the action is a civil action making claim against Safeco under a surety performance bond for specific performance of its alleged obligations under the performance bond issued in respect of a construction contract between the Owner and TAK Construction, Inc. The face value of the performance bond is \$19,774,000 as stated in Exhibit "B" to the Complaint. Based on information Safeco has received from its construction consultants, the remaining cost to complete is well in excess of \$1,000,000.

4. At all times relevant hereto and on or about June 5, 2007, when the action was commenced in the Superior Court of the State of New Jersey, Law Division: Middlesex County Supreme Court:

a. as alleged in the Complaint, plaintiff was and is a Municipal Corporation of the State of New Jersey, having its principal offices in the State of New Jersey at 260 High Street, Perth Amboy, New Jersey 08861, such that the citizenship of plaintiffs for purposes of diversity jurisdiction is the State of New York;

b. defendant Safeco was a corporation organized, formed and incorporated in and under the laws of the State of Washington, having its principal place of business in the State of Washington.

5. Accordingly, this Court has original jurisdiction over this dispute pursuant to 28 U.S.C. § 1332, because the amount in controversy exceeds, exclusive of costs and disbursements, the sum or value of \$75,000 and the proper parties are citizens of different states.

6. By reason of the foregoing, this action may be removed to this Court by the defendant Safeco pursuant to 28 U.S.C. § 1441.

7. A copy of all process, pleadings, and orders served upon defendants to date is filed with this notice, consisting of the Complaint and accompanying Civil Case Information Statement, and a September 14, 2007 letter from counsel for the Owner with supporting papers for an order to show cause.

8. Defendants will provide written notice of the filing of this notice as required by 28 U.S.C. § 1446(d).

9. A copy of this notice will be filed with the Court of the State of New Jersey, Law Division: Middlesex County as required by 28 U.S.C. § 1446(d).

WHEREFORE, defendant requests that this action now pending in the Superior Court of the State of New Jersey, Law Division: Middlesex County be removed to this Court.

COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.
Counsel for Defendant
Safeco Insurance Co. of America

By: s/ Michael S. Meisel
Michael S. Meisel, Esq.
25 Main Street
Hackensack, New Jersey 07601

Dated: September 14, 2007